

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT
COUNTY OF KANE, STATE OF UTAH.

Mt. Carmel Irrigation Company (a corporation), Orderville Irrigation Company (a corporation) and Glendale Irrigation Company (a corporation)

Plaintiffs

vs

Joseph Hopkins, John Hyat, James Carpenter, James Smith, John Brimhall, Thomas Chamberlain, Willis Webb, John H. Stout, Leroy Harris, John T. Covington, H.O. Spencer, H.K. Roundy, G.D. McDonald, John W. Seaman, O.F. Spencer, George Johnson, and R.G. Jolley.

Defendants.

DECREE.

This cause came on regularly for trial before the court, a jury trial having been expressly waived; E.E. Heffman and John F. Brown appearing as attorneys for the plaintiff's and John F. Chidister appearing as attorney for the defendant, Thomas Chamberlain; and each of the plaintiffs as well as the following named defendants, to wit: Joseph Hopkins, H.O. Spencer, G.D. McDonald, John W. Seaman, George Johnson, R.G. Jolley, Willis Webb, J.D. Carpenter, John Hyat, John H. Stout, Thomas Chamberlain, James Smith, O.F. Spencer, having heretofore signed and filed with the records and files herein stipulations, in writing, admitting the rights and facts of the various parties to be as hereinafter set forth; and default having been taken against H.K. Roundy, John Brimhall, John T. Covington and Leroy Harris, they having each been regularly served in person with process and having failed to appear and answer the plaintiff's complaint herein, and the legal time for answering having expired, and witnesses having been sworn who testified in open court as to the rights of the various parties hereto, and the court being fully advised in the premises in accordance with the said stipulations and testimony, made and filed its findings of fact and conclusions of law:

IT IS THEREFORE ORDERED ADJUDGED AND DECREED:

1. That the defendant, Thomas Chamberlain, is the owner by prior appropriation, and by open, peaceable, uninterrupted and adverse use of all the waters of Chamberlain's lake.
2. That the defendants James Carpenter, John Hyat and James Smith are the owners, by prior appropriation, and by open, peaceable, uninterrupted and adverse use of all the waters of Lydia's Fork, a tributary of the East Fork of the Rio Virgin River, which if not diverted would flow into said East Fork of the Rio Virgin River.
3. The plaintiffs and the following named defendants, to wit: Joseph Hopkins, Thomas Chamberlain, Willis Webb, H.O. Spencer, H.K. Roundy, G.D. McDonald, John W. Seaman, George Johnson and R.G. Jolley are the owners and entitled to the use of all of the normal flow of the East Fork of the Rio Virgin River, in Kane County, Utah, and of its tributaries in said county (except the aforesaid Chamberlain's Lake and the aforesaid Lydia's Fork), in the following proportions; dividing all of the water of said river and its tributaries (except said Chamberlain's Lake and said Lydia's Fork) into 1201-1/3 shares, then the parties in this paragraph mentioned are entitled to and are the owners of the following proportions, to wit:
Mt. Carmel Irrigation Company 404 5/6 shares of said 1201-1/3 shares;
Glendale Irrigation Company 434 shares of said 1201-1/3 shares;
Orderville Irrigation Company 265 1/2 shares of said 1201-1/3 shares;
Joseph Hopkins 32 shares of said 1201-1/3 shares;
Thomas Chamberlain in addition to the waters of Chamberlain's Lake of which he is the owner as hereinbefore mentioned, is the owner of 11 shares of the

Willis Webb 10 shares of said 1201-1/3 shares;
H.O.Spencer 6 shares of said 1201-1/3 shares;
H.K.Rounay 9 shares of the said 1201-1/3 shares;
G.D.McDonala 9 shares of said 1201-1/3 shares;
John W. Seaman 9 shares of said 1201-1/3 shares;
George Johnson 4 shares of said 1201-1/3 shares;
R.G.Jolley 7 shares of said 1201-1/3 shares;

That each of the parties to this suit, their agents, servants and employees be and they and each of them, their agents, servants and employees are hereby perpetually enjoined and restrained from in any manner, or at all, interfering with the use of the water which is hereby decreed to belong to the other parties to this suit, or to either or any of them and are likewise restrained and enjoined from in any manner or at all, interfering with the full free and ~~xxxx~~ uninterrupted enjoyment and use of said waters as hereinbefore decreed.

4. That said water (except the waters of Chamberlain's Lake and Lydia's Fork) shall be divided and distributed to the parties entitled thereto, by a water commissioner, to be appointed by the court; that the parties hereto who are the owners of a portion of the water which he shall divide, shall pay said water commissioner a reasonable compensation for his services. That the pro rata of said water commissioner's compensation against each person after the same becomes due, shall have the effect of a judgment against such person.

5. That each party hereto pay his own costs except the costs of court which shall be apportioned between the several parties hereto according to proportion of water herein decreed to them.

That the costs of Clerk of Court are hereby taxed at \$10.50

Dated April 18, 1900.

W.M.McCarty
Judge.

State of Utah

County of Kane, SS.

I, Delos R. McAllister, the duly elected and acting County Clerk of Kane County, State of Utah, do hereby certify that the above and foregoing is a full, true and correct copy of the Decree, in the case of the Mt. Carmel Irrigation Company ~~xx~~, Orderville Irrigation Company and Glendale Irrigation Company vs Joseph Hopkins, John Hyat, James Carpenter, James Smith, John Brimhall, Thomas Chamberlain, Willis Webb, John H. Stout, Leroy Harris, John T. Covington, H.O. Spencer, H.K. Rounay, G.D. McDonald, John W. Seaman, O.F. Spencer, George Johnson and R.G. Jolley defendants, which is on file in my office.

CERTIFICATE.

Clerk.

STATE OF UTAH

SS

COUNTY OF KANE

I, D.M. Tietjen Clerk of the District Court in and for Kane County State of Utah, here certify that the foregoing instrument is a full true and correct copy of the recorded Decree which appears written in the old District Court Minute Record "A" at Page 93.

WITNESS my hand and official seal this 7th day of September A.D. 1956.

D.M. Tietjen
Clerk of the District Court.